

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE**

**Call to Order:** By **CHAIRMAN DICK HAINES**, on January 16, 2001 at 8:30 A.M., in Room 317-C Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Dick Haines, Chairman (R)  
Sen. William Crismore, Vice Chairman (R)  
Rep. Christine Kaufmann (D)  
Sen. Linda Nelson (D)  
Sen. Bill Tash (R)  
Rep. Joe Tropila (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Gary Hamel, Legislative Branch  
Amber Sauer, Committee Secretary  
Doug Schmitz, OBPP

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: Department of Natural Resources  
Water Resources Division  
Executive Action: Department of Natural Resources  
Special Requests, Water  
Resources Division

***{Tape : 1; Side : A; Approx. Time Counter : 0}***

#### **DEPARTMENT OF NATURAL RESOURCE AND COMMERCE**

**Mr. Hamel, LFD**, presented the information on DP-37 Grass Conservation Commission. Previously the Grass Conservation Commission had thought additional funds would be necessary; however, they felt the request as is would be adequate. They

were requesting the committee take executive action on the decision package (DP) as originally presented. **Mr. Hamel** presented the DP. **Mr. Beck** stated this request as a biennial request will be sufficient.

**Motion/Vote:** SEN. NELSON moved that DP-37 GRASS CONSERVATION COMMISSION BE ADOPTED. Motion carried unanimously.

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**Mr. Hamel** distributed information on the suggested language for the Agriculture Heritage Program. The committee felt the language meets their intent. No action was necessary.

**EXHIBIT**(jnh12a01)

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**Mr. Hamel** discussed the requests received at a prior meeting about an RC&D for Gallatin, Park and Meagher Counties and the request for fund management of groundwater resources for the Clear Lake Aquifer per information distributed for the committee.

**EXHIBIT**(jnh12a02)

The first request was for the RC&D is for funding to develop an application for developing the RC&D. The requests are in the about of \$15,000 each year of the biennium. **Mr. Schmitz** did not recommend support of this additional budget request. **REP TROPILA** asked **Mr. Ray Beck, Division Administrator, Conservation and Resource Development Division (CRDD)** if it would be possible to find any funds in his existing budget. He stated he could possibly look at applying for grants. **SEN. NELSON** asked how many RC&D's are funded at the state special level. **Mr. Beck** stated there is actually one with a state employee that is cost shared with the federal government. The others are funded federally. The funding needed now is to apply and be approved for financial assistance. Once approved, they are funded federally; therefore, this request is a one-time-only request.

**Motion/Vote:** REP. KAUFMANN moved that ONE-TIME-ONLY FUNDING REQUEST FOR THE APPLICATION PHASE OF THE DEVELOPMENT OF A RESOURCE CONSERVATION & DEVELOPMENT AREA IN GALLATIN, PARK AND MEAGHER COUNTIES BE ADOPTED. Motion carried 5-1 with Crismore voting no.

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The second request by the Sheridan County Conservation District is for the Clear Lake Aquifer in the amount of \$35,000 each year of the biennium. **Mr. Hamel** explained the request per exhibit 2. **Mr. Jeff Wivholm, Sheridan County Conservation District (SCCD)** spoke to the request and its importance to monitor the aquifer. **SEN. NELSON** added the project began with federal grants but as grants run out, the work was still there to be done and it became necessary to find permanent funding. **Mr. Wivholm** stated it is the only groundwater reservation in the state and is next to a wilderness area which increases the importance of monitoring. There was further discussion on the effects on the wilderness area, other funding sources available, how the \$35,000 was determined, monitoring the water, mill levies for the conservation districts, and the demands being put on Sheridan County to monitor it.

**Motion/Vote:** **SEN. NELSON** moved that **ONE-TIME-ONLY FUNDING OF \$35,000 GENERAL FUND EACH YEAR OF THE BIENNIUM FOR SHERIDAN COUNTY CONSERVATION DISTRICT TO DEVELOP A WATER MANAGEMENT PLAN TO MONITOR THE CLEAR LAKE AQUIFER BE ADOPTED.** Motion carried unanimously.

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#### **Water Resources Division**

**Mr. Jack Stults, Administrator, Water Resources Division, Department of Natural Resources (DNRC),** gave a brief overview of the division per the following exhibit.

#### **EXHIBIT(jnh12a03)**

**Mr. Stults** stated Montana is a headwaters state which means waters are arising in the state and moving out. This gives Montana some special advantages and special responsibilities. We must do what we do wisely. The responsibilities of the Water Resources Division (WRD) range from operation of storage reservoirs to managing and recording statewide water rights which amount to 500,000. They are a national award winner and looked to from other states on how to manage water. **Mr. Stults** spoke about the FTE's in numbers and duties and the focus on their priorities. It is divided into 4 Bureaus-Water Projects Bureau, Water Rights Bureau, Water Operations Bureau, and Water Management Bureau. There is much cooperation among the bureaus and teamwork. He continued with the organization of the Division. He covered the history, staffing, and duties of each Bureau.

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### **Water Projects Bureau**

**Mr. Stults** stated the Water Projects Bureau still owns and operates 44 state water projects which is a reduction from 76 in 1990. He described several of the main projects such as Tongue River Reservoir, Broadwater Hydropower Project-Toston Dam, and Bair Dam. There are several projects they have privatized and will continue to do so to reduce the state's responsibilities.

**Mr. Stults** commented that for the design, the construction and all other aspects of the Tongue River Reservoir, they won the award of the American Society of Civil Engineers Western Division for the number one construction project in the Western United States for the year 1999. It was the largest non-highway project in the history of the state. There was discussion on the fixed rate the WRD has with the Montana Power for energy from Broadwater Hydropower. Revenue generated from the projects is used for rehabilitation in other projects. They have also won a Montana award for concrete work done in the projects.

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### **Water Rights Bureau**

**Mr. Stults** stated the Water Rights Bureau is responsible for implementation of the Montana Water Use Act. It maintains the centralized records system, claims examination, water court assistance, water use authorizations, controlled groundwater areas, basin closures, and administration of water rights compacts. He explained some of the work involved in claims examination and assisting with the water court cases. The centralized water rights records system is a constitution mandated responsibility. They are currently trying to deal with about a 9000 backlog of water right applications and verification.

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### **Water Management Bureau**

**Mr. Stults** continued with the Water Management Bureau. This Bureau is responsible for drought response, technical support of hydrology, interstate and international issues, and watershed planning assistance. They are actively and intensively involved with about 20 watershed groups at any one time. They have had great success in dealing recently with Canada in the Milk River International Alliance. **Mr. Stults** showed a map locating Montana

surface water closure and controlled groundwater areas. There was some discussion about the current lawsuit by the Northern Plains Resource Council. They also discussed legal problems with border states.

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**Mr. Stults** stated the Drought Advisory Committee is in this Bureau. The drought management plan is copied by other states and many states seek our advise. Montana has set the pace for many aspects in water resources. The existence of this committee allows a quicker response to problems. The activity, of course, was intense last year and looks like it will be again in the summer of 2001.

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#### **Water Operation Bureau**

This is a small bureau with regulatory responsibilities. They provide assistance to the Board of Water Well Contractors. **Mr. Stults** showed a map of the Montana Dams. One of the largest projects in this Bureau is the Dam Safety Program with approximately 9000 dams in the State to monitor. He explained the need for emergency action plans, for private dam owners as well as the state, for those dams that are considered to be a risk to life if they failed. They have aggressively pursued FEMA funds for this purpose. Flood plain management is another delegated authority from the federal government through the states to the counties. Each county has a flood plain manager. This Bureau provides backup technical and legal assistance for those agencies.

**Mr. Stults** concluded the presentation by stating he is proud of the awards won and for which they have been nominated, of the accomplishments of the Division, and the teamwork efforts for the State of Montana.

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**Mr. Hamel** began with the first decision package (DP). DP-2 State Water Project Rehabilitation is a request for \$3,600,000 in fiscal 2002 to perform rehabilitation of Bair Dam and Nevada Creek Dam. Funding for these rehabilitation activities would come from the Broadwater Hydropower earnings account and the water storage account. **Mr. Hamel** touched briefly on the Resource Indemnity Trust (RIT) and how funds in the amount of \$500,000 from the Water Storage account would also be used for the dam

rehabilitation. **Mr. Stults** stressed the importance of the rehabilitation of the two dams. Currently Bair Dam is not full due its deterioration. **SEN. CRISMORE** asked for clarification of the additional \$1.2 million needed. **Mr. Hamel** stated it is additional funds needed to complete the project and would come from water user associations. However, the private funds are considered non-budgeted. They need to be certified through the budget office. The committee further discussed the private funds.

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**Motion/Vote:** **SEN. CRISMORE** moved that **DP-2 STATE WATER PROJECT REHABILITATION BIENNIAL, ONE-TIME-ONLY AND RESTRICTED BE ADOPTED AS AMENDED. Motion carried unanimously.**

**Mr. Hamel** distributed an exhibit to refer to on DP-11.

**EXHIBIT(jnh12a04)**

This addressed budget adjustments for Water Resources Division. They would like to delete present law DP-11 which is for water rights record conversion and utilize the state special revenue funding portion of that in new proposal DP-5 water rights permit verification.

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**Mr. Hamel** further explained the adjustment. It would actually result in a net gain to the general fund. **CHAIRMAN HAINES** recommended further discussion on these proposed changes.

**Mr. Hamel** went on to DP-22 Dam Safety Improvement which is to assist dam owners with maintenance inspections on dams, etc. This request would increase the current federal appropriation from \$50,000 to the approximately \$134,000 expected to be available from FEMA. The funding is for the 2.75 FTE. **Mr. Stultz** explained the request further in regard to the FEMA funds and the importance in assisting the private dam owners in the interest of public safety.

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**Motion/Vote:** **REP. TROPILA** moved that **DP-22 DAM SAFETY IMPROVEMENT ONE-TIME-ONLY RESTRICTED BE ADOPTED. Motion carried unanimously.**

There was some discussion on the .75 FTE that would be a dam safety member and the requirements.

**Mr. Hamel** then explained DP-28 Operating Expense Adjustments which is for various base adjustments for operating expenses summarized in table 14 on page C-153 of the LFD budget book. Because some of the expenses appear to be one-time-only expenses, he recommended the committee may wish to designate some or all of the package one-time-only. **Mr. Schmitz** did not encourage base adjustments for operating expenses to be one-time-only appropriations. **Mr. Stultz** agreed and added that downward adjustments are considered in the following biennium budget requests.

**CHAIRMAN HAINES** asked if **Mr. Schmitz** could revise the request to separate the one-time-only items out. **REP. KAUFMANN** pointed out this is the procedure being used for all agencies and they have been routinely passed. The committee discussed the issue further noting the "debt service adjustment due to increase in loan principal and interest" item caused the package to be an increase; otherwise, it would have been a decreased overall amount.

**Motion/Vote:** SEN. CRISMORE moved that DP-28 OPERATING EXPENSE ADJUSTMENTS BE ADOPTED. Motion carried 5-1 with Haines voting no.

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**Mr. Hamel** went on to the next DP was DP-30 Lease Vehicles for Program 24 Water Resources Division. This request is for ten lease vehicles to replace eight agency-owned vehicles with leave vehicles from the Motor Pool. This includes all gas, liability insurance and vehicle maintenance.

**Motion:** REP. TROPILA moved that DP-30 LEASE VEHICLES PROGRAM 24 BE ADOPTED.

**Discussion:** CHAIRMAN HAINES asked if these vehicles could be funded from the projects where they would be used. **Mr. Stultz** stated the division had analyzed that and decided on this method of funding.

**Motion/Vote:** REP. TROPILA moved that DP-30 LEASE VEHICLES PROGRAM 24 BE ADOPTED. Motion carried unanimously.

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The next DP was DP-32 Broadwater Hydropower Facility for a comprehensive dam safety report (required every five years) and a fisheries evaluation and report to be submitted to the Federal

Energy Regulatory Commission. **Mr. Hamel** recommended a one-time-only appropriation. The Division agreed.

**Motion/Vote:** SEN. NELSON moved that DP-32 BROADWATER HYDROPOWER FACILITY ONE-TIME-ONLY BE ADOPTED. Motion carried unanimously.

DP-57 Language Appropriations for spending authority had three sections as seen on page C-154 of the LFD Budget Book.

**Mr. Stults** explained the need for the maintenance and the amounts necessary. He gave a few examples of repairs and expenses.

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**Motion/Vote:** SEN. NELSON moved that DP-57 LANGUAGE APPROPRIATIONS AS FOLLOWS BE ADOPTED. Motion carried unanimously.

- 1) During the 2003 biennium, up to \$1 million of funds currently in or to be deposited in the Broadwater replacement and renewal account are appropriated to the department for repairing or replacing equipment at the Broadwater hydropower facility.
- 2) During the 2003 biennium up to \$70,000 of interest earned on the Broadwater water users account is appropriated to the department for the purpose of repair, improvement, or rehabilitation of the Broadwater-Missouri diversion project.
- 3) During the 2003 biennium, up to \$500,000 of funds currently in or to be deposited in the state project hydropower earnings account are appropriated for the purpose of repairing, improving, or rehabilitating department state water projects.

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**Mr. Hamel** continued with DP-59 which is a federal budget amendment. This is to fund projects that fall under a Bureau of Reclamation grant award to study Twin Lakes Dam and Big Hole River. He was notified the Department received an additional \$20,000 each year additional grant monies. The DP should be modified from \$25,000 to \$45,000 in federal funds. Refer to language on exhibit 4, page 2.

**Motion/Vote:** SEN. NELSON moved that DP-59 FEDERAL BUDGET AMENDMENT WITH REVISIONS BE ADOPTED. Motion carried unanimously.



The next DP was DP-100 Water Well Litigation which is funds to be used to pay legal costs associated with alleged violations of water well construction standards. Funds for this are not included in the base budget. **Mr. Stults** stated it is the up front costs in going to the Attorney General's office for support that require funds not recoverable.

**Motion/Vote:** SEN. NELSON moved that DP-100 WATER WELL LITIGATION RESTRICTED BE ADOPTED. Motion carried unanimously.

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**Mr. Hamel** moved on to new proposals. DP-1 Collaborative Clark Fork Basin Planning Proposal was removed per the Martz adjustments. DP-5 Water Right Permit Verification was requested to be adjusted per exhibit 4. The main purpose of the adjustment was to speed up the conversion process of records. **Mr. Stults** spoke to the decision package stressing the necessity of completing the project and taking care of the huge backlog. The staff would be water right specialists at grade 13. The additional funding would come from state special revenue.

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**Motion/Vote:** SEN. TASH moved that DP-5 WATER RIGHTS PERMIT VERIFICATION ONE-TIME-ONLY AS AMENDED PER EXHIBIT 4 BE ADOPTED. Motion carried unanimously.

**Mr. Hamel** discussed the last decision package which is DP-8 Flood Damage Reduction. This project would develop maps of floodways and floodplains to illustrate flood-hazard information regarding home construction and other activities in flood-prone areas. He recommended the appropriation be made one-time-only and restricted. **Mr. Stults** stated he would be happy to provide a progress report to the next legislature. There was further discussion on the proposed project.

**Motion:** SEN. TASH moved that DP-8 FLOOD DAMAGE REDUCTION BE ADOPTED WITH LANGUAGE REQUIRING A PROGRESS REPORT.

**Discussion:** The committee discussed the funding and the motion further. The Department felt the language requiring a progress report would be sufficient without having it designated a one-time-only.

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**SEN. NELSON** amended the motion to be restricted. **Mr. Stults** stated the department could agree with that. The FEMA funds will be coming for the next ten years which themselves are restricted. **Mr. Schmitz** stated it causes some problem in the turn around. **SEN. NELSON** removed her amendment for restriction. **Mr. Hamel** stated without restriction, the department could use the authority elsewhere; however, if there are FEMA restrictions, it would probably not be possible. If unrestricted, it adds to the base budget for the next biennium. **REP. TROPILA** assumed the chair position and **REP. HAINES** moved one-time-only and restricted.

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**Amendment Motion/Vote:** **REP. HAINES** moved amendment **DP-8 FLOOD DAMAGE REDUCTION ONE-TIME-ONLY AND RESTRICTED BE ADOPTED**. Motion on the amendment carried unanimously.

**Motion/Vote:** **SEN. TASH** moved that **DP-8 FLOOD DAMAGE REDUCTION WITH LANGUAGE REQUIRING A PROGRESS REPORT BE ADOPTED AS AMENDED**. Motion carried unanimously.

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#### **Trust Land Management**

**Mr. Bud Clinch, Director, Department of Natural Resources and Conservation (DNRC)**, stated the Trust Land Management Division, unlike other agencies the committee has heard to date, is totally funded from revenue they generate and generates other revenues for the State.

**Mr. Monte Mason, Acting Administrator, Trust Land Management Division**, who was recently appointed as Administrator to the Division, gave a PowerPoint presentation of the division.

#### **EXHIBIT (jnh12a05)**

**Mr. Mason** stated as the name implies, they manage the trust lands and generate revenue. Last fiscal year brought in about \$40 million in revenues, and interest on the existing permanent fund held in trust was about \$25 million. This money is available for the schools in Montana. He showed a map of the State with the state school trust lands marked and stated almost everything happens on state school trust land from hunting to archeology. The enabling Act of 1889 established the school trust lands as a result of the federal government granting these lands to the

state as part of the bargain for admission to the union as a state. It states sections 16 and 36 in every township was to be designated for public schools, and additional sections were granted for other education endowments and public buildings such as the university system. If sections 16 and 36 were not available due to previous claims or grants, the state was allowed to select two other sections.

**Mr. Mason** spoke of the language in the Constitution of the State of Montana depicting the School Trust Lands. He covered the Trust Land mission, the list of trust beneficiaries, and the monetary benefit to public schools. The combined permanent trust fund, which is contributed to by such items as sales of lands and mineral rights, has grown to \$360 million. The Division has four Bureaus and a Field Operations Agency. The Bureaus are Agriculture and Grazing Management, Forest Management, Minerals Management, and Special Use Management. The division has 124 FTE total. **Mr. Mason** stated the duties, responsibilities and revenues of each Bureau and gave several examples of revenues generated. He added one of the decision packages will involve funding for rehabilitation of burned acres on school trust land from the fire season of 2000.

**Mr. Mason** explained in detail the Forest Management Program and timber sales. He spoke of the sales, the revenue/cost ratio, the volume harvested, the preparation time for a typical timber sale, and the harvesting time.

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**Mr. Clinch** explained the required report of revenue/cost ratios of timber sales further. He added information about the marketing conditions of timber and how it affects the sales and harvest. They are striving for the best cost ratio possible.

**Mr. Mason** stated **Mr. Tom Schultz, Bureau Chief, Forest Management**, researched the revenue cost ratios to 1994 and found 1999 at 1.36 was the worst year. The 1994 to 2000 average is 1.97.

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**Mr. Clinch** continued with the cost/revenue ratio issue. In closing **Mr. Mason** summarized the decision packages to be discussed in detail at the next meeting.

**CHAIRMAN HAINES** adjourned the meeting.

**ADJOURNMENT**

Adjournment: 11:45 A.M.

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REP. DICK HAINES, Chairman

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SANDRA WHITAKER, Transcription  
Secretary

DH/SW

**EXHIBIT** (jnh12aad)